

**MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA CITY COUNCIL  
HELD AT CITY HALL  
MAY 18, 2004  
7:00 P.M.**

**ROLLCALL** Answering rollcall were Members Hovland, Kelly, Masica and Mayor Maetzold.

**CONSENT AGENDA ITEMS APPROVED** Motion made by Member Masica and seconded by Member Hovland approving the Council Consent Agenda with the exception of Item I. Minutes of Regular Meeting of May 4, 2004; Item IV.D Resolution No. 2004-43 re-establishing Precinct Boundaries for Edina Precincts 17 and 18; and re-establishing polling places; and Item No. IV.F., Memorandum of Understanding establishing Local 49ers Central Pension Fund.

Rollcall:

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**MINUTES OF THE REGULAR MEETING OF MAY 4, 2004, APPROVED** Member Hovland stated he had a correction to page ten, paragraph five of the minutes of the May 4, 2004, Regular Council meeting. He said the corrected sentence should read, "Member Hovland stated he was not in support of the Association granting unrestricted access of minors to the hospitality area and for that reason would not be supporting the license request this year." **Member Hovland made a motion to approve the Minutes of the Regular Meeting of May 4, 2004, as corrected.** Member Kelly seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**\*MINUTES OF THE SPECIAL MEETING OF MAY 4, 2004, APPROVED** Motion made by Member Maetzold and seconded by Member Hovland, approving the Minutes of the Special Meeting of the Edina City Council for May 4, 2004.

Motion carried on rollcall vote – four ayes.

**POLICE EXPLORER POST RECOGNIZED** Lt. Ken Kane indicated that 18 Police Explorers from the Edina – Eden Prairie Post #925 attended the annual statewide Law Enforcement Explorer Conference at Breezy Point on April 22 – 25, 2004. The event allowed the Explorer's a chance to demonstrate skills learned during the year and to showcase their ability to work as a team. He explained that five teams of Explorers from the Post competed in 16 events against 31 other posts from throughout the state. The Edina – Eden Prairie Post won five awards in the practical competition; the most any post received this year. The Post's results are due to the leadership, hard work and dedication of the Explorer's advisors, Kris Eidem and Jason Behr.

**PRESENTATION BY HENNEPIN COUNTY COMMISSIONER KOBlick** Commissioner Linda Koblick appeared and gave a brief update to the Council of Hennepin County, its

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services and indicated her desire to partner with the City in any way possible. She distributed some information on the Hennepin County Board, a summary of the 2004 Budget and a transportation department listing of proposed 2004 activities. The Council and Commissioner Koblick discussed areas of mutual concern including: transportation, budget cuts and their impacts, social services, and the upcoming France Avenue Study. Mayor Maetzold thanked Commissioner Koblick for appearing.

**PRELIMINARY PLAT - TWO-LOT SUBDIVISION CURT FRETHAM, 6800 INDIAN HILLS ROAD, REFERRED TO CITY ATTORNEY FOR OPINION** Affidavits of Publication were presented and ordered placed on file.

### Presentation by Planner

Planner Larsen stated that Curt Fretham has again submitted a request for a two-lot subdivision of the property located at 6800 Indian Hills Road. He said the proposal would removal the existing house and build a new home on each lot. Mr. Larsen said the City Council on March 1, 2004, voted to deny a subdivision of this property. Following that action the proponents have re-submitted a proposal to subdivide the subject property. Mr. Larsen noted the current proposal was similar, but not identical to the original proposal.

Mr. Larsen explained the new request used the literal language from the City's Subdivision Ordinance to calculate the dimensions of lots within the plat and the surrounding neighborhood. He added that as a result of the literal interpretation both of the proposed lots and lots within 500 feet yield slightly different measurements. Mr. Larsen said in evaluating the previous proposal staff worked with the surveyor to determine lot dimensions. Their agreed to measurements were determined by making some modifications to the literal definitions in order to better represent the development pattern of lots in this neighborhood.

Mr. Larsen stated that using the proponent's literal method of calculating lot sizes resulted in the loss of three lots in the neighborhood. He said the lots did not have frontage on a public street making it impossible to use the City's definition to make measurement. Mr. Larsen said two other lots were eliminated because they fell out if the Ordinary High Water mark of the lake was used a the rear lot line. He stated that one lot on Pawnee was added. Mr. Larsen reported the 500-foot neighborhood values as calculated by the proponents:

#### **500-Foot Neighborhood**

<u>Lot Width</u>	<u>Lot Depth</u>	<u>Lot Area</u>
107 feet	194 feet	24,414 square feet

#### **Proposed Lots**

	<u>Lot Width</u>	<u>Lot Depth</u>	<u>Lot Area</u>
Lot 1	114.5 feet	309 feet	32,937 square feet
Lot 2	114.5 feet	326 feet	34, 129 square feet

Mr. Larsen used a graphic to illustrate how the lots were selected and also the configuration of the two proposed lots, which had a zigzag lot line between the two new lots. He explained that as proposed and calculated by the proponents the subdivision did not need a lot width variance. Mr. Larsen stated the Planning Commission had moved to forward the present

application to the Council with a finding that the new application was not materially different from the previously proposed plat.

Member Kelly stated that he felt there needed to be a legal opinion on the interpretation used by the proponent.

Member Masica asked how many different calculations have been used. Mr. Larsen acknowledged that there have been several permutations before arriving at the present proposal.

#### Proponent Presentation

Peter Beck, 80 South 8<sup>th</sup> Street, Minneapolis, representing Brad Peterson and Curt Fretham stated he was surprised that there was any question about the median values of the lots in the neighborhood. He said he understood that they were correct in their calculations therefore; no variance would be required because the proposed lots met all subdivision regulations. Mr. Beck said the proponent believed the proposed lots were neither incompatible nor unusual in relations to existing lots in the neighborhood. He used a graphic representation to illustrate the similarity of the proposed lots to those in the neighborhood. Mr. Beck quoted a Minnesota Supreme court ruling that stated when an application for subdivision complies with all standards it would be arbitrary to deny said application.

Mr. Beck said the proposed lot line between the two new lots had been developed when the proponents believed they needed to achieve a lot width of 112 feet. However, the proponent's calculations indicate that the median value need is 107 feet so if the Council desired the proponents would be amenable to going back to a straight lot line between the two proposed lots.

Member Kelly asked why the lot line was proposed as a zigzag initially. Mr. Beck replied it was only proposed in that manner to avoid a need for a variance.

#### Public Comment

Sharon Prevot, 6728 Indian Hills Road presented a speaker list of Indian Hills residents who would be presenting their reasons for opposing the subdivision.

Janice Joslyn, 6718 Indian Hills Road, said the neighbors were prepared to make their presentation but really wondered why the proposal had not been summarily dismissed because it was materially the same as what had just been denied in March. She urged the Council to deny the requested subdivision.

Penn Joslyn, 6718 Indian Hills Road, questioned the data the proponents were basing their median value calculation upon. He said the data has changed so many times, that it should not be trusted. Mr. Joslyn also questioned the source of the data. He pointed out that Hennepin County does not claim their records were accurate. Mr. Joslyn noted he has had two surveys of his own property done. If the City would or could not have surveys done of all the 500-foot neighborhood property, then the neighbors would get involved, but he urged that accurate data be used to make the calculations of median values.

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Dan Wothe, 6804 Indian Hills Road, added his concern over the omission of certain lots when the median neighborhood values were calculated. He said in his opinion, these lots were still in the neighborhood even if they did not have street frontage. Mr. Wothe also disputed the change in lot median width. He said the proposed lots would be quite small and would change the character of the neighborhood. The subdivided lots would not fit in. Mr. Wothe added that Indian Hills was unique because of the lots in existence. He said Edina should realize the value of maintaining a variety of lot sizes and maintain the large lots instead of allowing every subdivision.

Henry Prevot, 6720 Indian Hills Road, said in his opinion the proposed subdivision was one of the most severe cases of gerrymandering he had ever seen. He added that the way the proponent has kept switching which lots need inclusion in the 500-foot neighborhood was absurd and should not be allowed. He showed a petition and some survey results that he and his neighbors had gathered requesting denial of the proposed subdivision, but did not submit the documentation to the City.

Emily Buchwald, 6808 Margarets Lane said the beautiful lots around Indianhead Lake were one of the reasons Edina was a special community. Proposed subdivision will diminish that beauty and also will create a safety hazard with its location on a sharp curve with no streetlights.

Dan Wolf, 6208 St. Albans Circle, stated he has just purchased the property at 6520 Indian Hill Road. He said one of the reason they purchased the property was because of the large lots. Mr. Wolf expressed concern over the precedent being set if all requested subdivision of large lots were to be allowed. He added that he believed there was a great value to the City in preserving the larger lots and that it would be short sighted to allow their subdivision.

Sharon Prevot, 6728 Indian Hills Road, stated her personal concern with the location of new homes and their proximity to her home if the subdivision were granted. She stated that previously the proponent has assured them they would stay twenty feet from the side yard, but the current proposal had no such caveat. Ms. Prevot stated this would mean that she would be looking at an asphalt roof, and would loose both sunlight and the beauty of the mature trees on the lots, which would be removed to build a new home. Ms. Prevot also expressed concern over traffic safety and stated in her opinion public hearing notices should not go only to the 500 foot neighborhood, but also to the Arrowhead Lakes Association, Indian Hills Lakes Association, Indian Hills neighborhood, Rolling Green and other neighborhoods with lakeshore or large lots.

**Member Kelly made a motion to close the public hearing.** Member Hovland seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

Attorney Gilligan recommended that the Council include in the record for the application currently in front of them all testimony, proceedings and action taken with respect to the

previous subdivision request for this property because of the similarity and timing of the applications.

**Member Masica made a motion to include in the record for the application currently in front of them all testimony, proceedings and action taken with respect to the previous subdivision request for this property because of the similarity and timing of the applications.** Member Kelly seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**Member Hovland made a motion, seconded by Member Masica to refer the matter to the City Attorney for interpretation of whether or not the application included the accurate 500-foot neighborhood for median lot value calculation. Said interpretation to be presented to Council at their June 1, 2004, meeting.**

Member Kelly stated that he felt further discussion was merited for the Council to consider a moratorium on subdivisions to allow a study of the subdivision ordinance and neighborhoods. He added that a potential moratorium on subdivisions should be a part of Mr. Gilligan's review.

Mayor Maetzold asked if Mr. Gilligan could incorporate as part of his review a recommendation on a potential moratorium. Mr. Gilligan affirmed this would be possible.

Member Hovland stated he would also favor a legal analysis of what would constitute a neighborhood.

Member Masica agreed with the other members.

Mayor Maetzold called the question.

Rollcall:

Ayes: Hovland, Kelly, Masica, Maetzold.

Motion carried.

**ORDINANCE NO. 2004-07 ADOPTED AMENDING SECTION 850 FENCE HEIGHT STANDARDS** Mr. Hughes stated staff had clarified the language of the proposed ordinance stating that it now read, "Posts may extend beyond the top of any fence by no more than twelve inches." He added that a draft of the fence standards brochure had been included for Council's review.

Member Hovland asked who makes the determination relative to the fence exceeding the allowed height by a maximum of six inches to accommodate drainage and uneven terrain. Mr. Hughes replied that the building official would be the person making that determination.

Following a brief discussion **Member Hovland made a motion to grant second reading to Ordinance No. 2004-07 Amending Section 850 Fence Height Standards as follows:**

**EDINA ORDINANCE NO. 2004-07**

**AN ORDINANCE AMENDING SECTION 850  
TO PROVIDE A DEFINITION OF FENCE HEIGHT, AND  
STANDARDS FOR MAXIMUM HEIGHT OF FENCES  
IN THE R-1 AND R-2 DISTRICTS**

**THE CITY COUNCIL OF THE CITY OF EDINA ORDAINS:**

**Section 1.** Subsection 850.03 of Section 850 of the Edina City Code is amended by adding the following thereto:

“Fence Height. The vertical distance measured from the finished grade to the uppermost point of the fence panels. The grade at the fence line shall not be altered in anyway that artificially increases the maximum permitted height of the fence. The height of the fence may exceed the allowed height by a maximum of six inches to accommodate drainage and uneven terrain. Posts may extend beyond the top of any the fence by no more than twelve inches.”

**Section 2.** Subsection 850.07 of Section 850 of the Edina City Code is amended by deleting and adding the following:

“B. No fence shall exceed ~~eight~~ six feet in height.”

**Section 3.** This Ordinance shall be in full force and effect upon passage and publication.

First Reading: May 4, 2004  
Second Reading: May 18, 2004  
Publication: May 27, 2004

**Attest**

\_\_\_\_\_  
**Debra A. Mangen, City Clerk**

\_\_\_\_\_  
**Dennis F. Maetzold, Mayor**

Member Masica seconded the motion.

Rollcall:

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**ORDINANCE NO. 2004-08 ADOPTED AMENDING SECTIONS 900 AND 1230 - PERMITTING ISSUANCE OF ON-SALE WINE AND STRONG BEER LICENSE AT BRAEMAR GOLF COURSE** Park Director Keprios stated that staff had reviewed two issues the Council questioned when granting first reading to the proposed ordinance at their May 4, 2004, meeting: sale of wine out on the golf course and the concept of allowing private rentals the option of selling wine and/or strong beer by the glass.

Mr. Keprios said that after reviewing the matters he recommended:

- Braemar Golf Course services their grill customers only in a pay by the drink fashion. As a matter of policy Braemar would not sell wine out on the golf course with the exception of a fortified wine such as Arbor Mist – similar to malt beverages – from the beverage cart; and
- Braemar Golf Course would not allow wedding or private party guests to purchase beverages via a cash bar. Currently any renter purchases beer and soda from Braemar and brings in any wine for service. This current policy of expecting the renter to host the bar would continue. Any changes would be brought before the Park Board and Council for review and approval.

Mr. Keprios told the Council that Braemar would not be a “drinking destination”, but rather a friendly golf course where customers may enjoy a glass of wine or beer after a round of golf.

Member Masica asked how beverages were delivered to customers on the golf course. Mr. Keprios answered they were distributed in cans and that appropriate means of disposal were available at each tee.

Electronic correspondence was received from Paul N. Green, 6945 Southdale Road, stating disapproval with the proposed ordinance amendment. He further encouraged that a ‘no smoking’ ban be implemented at all Edina parks.

Following a brief discussion **Member Masica made a motion to grant second reading to Ordinance No. 2004-08 amending Sections 900 and 1230 permitting the issuance of On-Sale Wine Liquor License at Braemar Golf Course as follows:**

**ORDINANCE NO. 2004-08**

**AN ORDINANCE AMENDING**

**SECTION 900 SALE OF LIQUOR AND WINE, AND  
SECTION 1230 CONDUCT IN PARKS AND PUBLIC PLACES  
TO PERMIT THE ISSUANCE OF A WINE LICENSE AND  
THE CONSUMPTION OF WINE AND INTOXICATING  
MALT LIQUOR AT BRAEMAR GOLF COURSE**

**THE CITY COUNCIL OF EDINA, MINNESOTA, ORDAINS:**

**Section 1. Subd. 4 of Subsection 900.09 of the City Code shall be amended to read as follows:**

**“Subd. 4 Wine Licenses. In addition to the requirements of Subd. 1 of this Subsection, no Wine License shall be granted to any establishment other than a restaurant located in the PCD-1, PCD-2, PCD-3 Subdistricts, the Mixed Development District, the Planned Office District or a restaurant that is part of a clubhouse on the grounds of a golf course located in the R-1 District as established by Section 800 of this Code.”**

**Section 2. Paragraph O. 3 of Subsection 1230.02 of the City Code shall be amended to read as follows:**

**“3. 3.2 percent malt liquor, wine and intoxicating malt liquor which is dispensed by the City or by an agent of the City pursuant to a 3.2 Percent Liquor License and a Wine License issued in accordance with Section 900 of this Code may be consumed subject to other applicable provisions of this Code and subject to the rules and regulations of the Park Director pursuant to Subsection 1230.06 on the grounds of Braemar Golf Course. 3.2 percent malt liquor which is dispensed by the City or by an agent of the City pursuant to a 3.2 Percent Liquor License issued in accordance with Section 900 of this Code may be consumed subject to other applicable provisions of this Code and subject to the rules and regulations of the Park Director pursuant to Subsection 1230.06 on the grounds of Fred Richards Golf Course.”**

**Section 3. Effective Date: This Ordinance shall be in full force and effect upon passage and publication according to law.**

**First Reading: May 4, 2004**

**Second Reading: May 18, 2004**

**Publication:** May 27, 2004

**Attest**

\_\_\_\_\_  
**Debra A. Mangen, City Clerk**

\_\_\_\_\_  
**Dennis F. Maetzold, Mayor**

Member Kelly seconded the motion.

Rollcall:

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**NEW INTOXICATING LIQUOR LICENSE APPROVED - DAYTON'S IRON HORSE LIQUORS, INC., dba/MARSHALL FIELD'S LAKESHORE GRILL** Affidavits of Notice were presented and ordered placed on file.

Mr. Hughes explained that the Marshall Fields store at Southdale had operated the Boundary Waters Restaurant for many years. Recently, the restaurant closed for renovation and was re-opened as the Lakeshore Grill. Marshall Fields decided to apply for an on-sale intoxicating license for this location. He added that they have filed all necessary paperwork and paid all their fees. In addition, all appropriate City departments have reviewed and favorably recommended the license for Council consideration.

Violet Strause, 800 On The Mall, Minneapolis, for Target Corporation thanked the Council for the consideration of the Lakeshore Grill's liquor license in Edina. She introduced Tom Leuer, Manager and stated they were available for any questions.

No one appeared to comment.

**Member Hovland made a motion to close the public hearing.** Member Masica seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**Member Hovland made a motion to grant an on-sale intoxicating liquor license and an on-sale Sunday sale liquor license to Dayton's Iron Horse Liquors, d.b.a. Marshall Fields, Lakeshore Grill, 100 Southdale Center, for the period beginning May 19, 2004, and ending March 31, 2005.** Member Masica seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**I-35W/HIGHWAY 62 CROSSTOWN INFORMATION PRESENTED** Tom O'Keefe, Minnesota Department of Transportation (MnDOT) Engineer, explained the goals of the I-35W and Highway 62 Crosstown reconstruction would be to:

- Minimize closures during construction - limits closures of major movements to eight weeks
- Provide additional capacity - results in 2-lane connection will expand capacity of interchange, additional lanes will increase freeway capacity and reduces congestion on local streets



- Minimize right-of-way takings – potential building acquisition will be less than 30, 23 residential buildings and 2 commercial buildings and will maximize use of available right-of-way
- Provide advantage for bus transit – HOV lanes will improve bus travel times and provide flexibility for bus operations and supports implementation of BRT
- Reconstruct an aging facility – improves safety conditions and will benefit the cost ratio is 3.7 to 1

The benefits of the refined concept are as follows:

- Maximizes use of available right-of-way
- Minimizes acquisition of additional properties
- Maximizes traffic capacity
- Relieves congestion and improves travel times
- Improves safety
- Provides increased options and flexibility for traffic management solutions including 1) transit, 2) HOV, 3) BRT, etc.
- Allows Highway 62 to act as a reliever for I-494
- Improves conditions on local street system
- Supports role of I-35W/Highway 62 Crosstown commons as an important link in the regional transportation system

Mr. O'Keefe elaborated that neighborhood meetings as well as public information open houses were held early in 2004. Agency coordination with the Minnesota Department of Transportation on the I-35W and Highway 62 project were with the Minnehaha Creek Watershed District, Minneapolis Park Board and the State Historic Preservation Office.

No formal Council action was taken.

**\*TRAFFIC SAFETY STAFF REVIEW OF MAY 4, 2004, APPROVED** Motion made by Member Masica and seconded by Member Hovland approving the May 4, 2004, Traffic Safety Staff Review, Section A, B and C.

Motion carried on rollcall vote – four ayes.

**RESOLUTION NO. 2004-43 APPROVED RE-ESTABLISHING PRECINCT BOUNDARIES – PRECINCT 17/18 AND RE-ESTABLISHING POLLING PLACES** Member Masica asked if the re-established precincts 17 and 18 were respectively in Representative Districts 41A and 41B and whether or not Edina's precincts were balanced by population. Clerk Mangen replied affirmative that Precinct 17 was in District 41A and Precinct 18 was in District 41B. She explained that Edina's precincts had no requirement to be balanced by population since the City was not composed of wards. Ms. Mangen noted precincts were a tool to allow for orderly administration of elections. Following a brief discussion **Member Masica made a motion introducing the following resolution and moving its adoption:**

**RESOLUTION 2004-43**

**CHANGING PRECINCT 17 AND PRECINCT 18 BOUNDARIES  
AND ESTABLISHING CITY POLLING LOCATIONS**

**WHEREAS, pursuant to Minnesota Statute 204B.14 the governing body of each municipality shall establish the boundaries of the election precincts in the municipality;**

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WHEREAS, legislation became effective May 1, 2004 corrected the boundary between Legislative Districts 41A and 41B in the City of Edina requiring a change in the boundary between City of Edina Precincts 17 and 18.

BE IT RESOLVED by the City Council of Edina, Minnesota, that it hereby establishes Edina Precinct 17 and Edina Precinct 18 as illustrated on the map presented at the regular meeting of May 18, 2004, and defined as follows:

Precinct No. 17 - Commencing at the intersection of France Ave (County Road 17) and Trunk Highway 62 then southerly along France Avenue to Parklawn Avenue, then easterly along Parklawn Avenue to York Avenue, then northerly along York Avenue to the south boundary of Independent School District No. 273, Edina then easterly along the south boundary of Independent School District No. 273, Edina to the east boundary of the City of Edina, then northerly along the east boundary of the City of Edina until its intersection with Trunk Highway 62, then westerly along Trunk Highway 62 to the point of beginning.

Precinct No. 18 - Commencing at the intersection of France Avenue (County Road 17) and Parklawn Avenue, then southerly along France Avenue to the south boundary of the City of Edina then easterly along the south boundary of the City of Edina to the east boundary of the City of Edina then northerly along the east boundary of the City of Edina to the south boundary of Independent School District 273, Edina then westerly along the south boundary of Independent School District 273, Edina to York Avenue South, then southerly along York Avenue South to its intersection with Parklawn Avenue, then westerly along Parklawn Avenue to the point of beginning.

BE IT FURTHER RESOLVED THAT THE City Council of the City of Edina hereby establishes the following polling locations:

Precinct 1A	Shepherd of Hills Church	500 Blake Road
Precinct 1B	Chapel Hills Church	6512 Vernon Avenue
Precinct 2	Edina Senior Center	5280 Grandview Square
Precinct 3	Covenant Church of Edina	4201 West 50 <sup>th</sup> Street
Precinct 4	Weber Park Building	4115 Grimes Avenue
Precinct 5	Highlands Elementary School	5505 Doncastor Way
Precinct 6	Countryside Elementary School	5701 Benton Avenue
Precinct 7	Normandale Lutheran Church	6100 Normandale Road
Precinct 8	South View Middle School	4725 South View Lane
Precinct 9	Concord Elementary School	5900 Concord Avenue
Precinct 10	Creek Valley School	6401 Gleason Road
Precinct 11	Creek Valley Baptist Church	6400 Tracy Avenue
Precinct 12	Cornelia Elementary School	7000 Cornelia Drive
Precinct 13	Centennial Lake Park Centrum	7499 France Avenue
Precinct 14	St. Peters Lutheran Church	5421 France Avenue So.
Precinct 15	Valley View Middle School	6750 Valley View Road
Precinct 16	Arneson Acres Park	4711 West 70 <sup>th</sup> Street
Precinct 17	Southdale Hennepin Library	7001 York Avenue South
Precinct 18	Edinborough Park Great Hall	7700 York Avenue South
Precinct 19	Calvary Lutheran Church	6817 Antrim Road

Passed and adopted this 18<sup>th</sup> day of May 2004. Member Hovland seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**\*2004-05 LABOR AGREEMENT - LOCAL UNION 320 APPROVED (POLICE OFFICERS)**

**Motion made by Member Masica and seconded by Member Hovland approving the 2004-05 Labor Agreement for Local Union 320 (Police Officers) as presented.**

Motion carried on rollcall vote - four ayes.

**MEMORANDUM OF UNDERSTANDING - ESTABLISHING LOCAL 49ERS CENTRAL PENSION FUND**

Member Hovland said he removed this item from the consent agenda to inquire whether or not participation in the Central Pension Fund was voluntary or mandatory on the part of the union members and if there would be any additional cost to the City. Mr. Hughes explained the bargaining unit took a vote and 80 percent voted for participation. For this reason the memorandum of understanding has been brought to the Council for implementation. After implementation participation will be mandatory for members of Local 49ers. He added that there would be some minimal costs in setting up the Central Pension Funds administratively, but there would be no contribution of City dollars it would be strictly a contribution by the employees.

**Member Hovland made a motion adopting the Memorandum of Understanding between the City of Edina and the International Union of Operation Engineers Local No. 49 for participation in the Central Pension Fund. Member Masica seconded the motion.**

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**\*RESOLUTION NOS. 2004-45, 2004-46 AND 2004-47 ADOPTED APPROVING "NO PARKING" - WEST 50<sup>TH</sup> STREET FROM DALE DRIVE TO WOODDALE AVENUE, WOODDALE AVENUE FROM WEST 56<sup>TH</sup> STREET TO WEST 50<sup>TH</sup> STREET AND GLEASON ROAD FROM MCCAULEY TRAIL TO VALLEY VIEW ROAD** Member Masica introduced the following resolution, seconded by Member Hovland and moved adoption:

**RESOLUTION NO. 2004-45  
RELATING TO PARKING RESTRICTIONS ON  
S.A.P. 120-141-11 (WEST 50<sup>TH</sup> STREET)  
DALE DRIVE TO WOODDALE**

**WHEREAS, the City of Edina has planned the improvement of MSAS 141 West 50<sup>th</sup> Street from Dale Drive to Wooddale Avenue; and**

**WHEREAS, the City of Edina will be expending Municipal Street Aid Funds on the improvement of this Street, and**

**WHEREAS, this improvement does not provide adequate width for parking on both sides of the street; and approval of the proposed construction as a Municipal State Aid Street project must therefore be conditioned upon certain parking restrictions.**

**NOW, THEREFORE, IT IS THEREBY RESOLVED that the City Council of the City of Edina shall ban the parking of motor vehicles on both sides of MSAS 141 West 50<sup>th</sup> Street from Dale Drive to Wooddale Avenue, at all times.**

**Passed and adopted this 18<sup>th</sup> day of May 2004.**

Motion carried on rollcall vote - four ayes.

Member Masica introduced the following resolution, seconded by Member Hovland and moved adoption:

**RESOLUTION NO. 2004-46  
RELATING TO PARKING RESTRICTIONS ON  
S.A.P. 120-150-08 (WOODDALE AVENUE)  
WEST 56<sup>TH</sup> STREET TO WEST 50<sup>TH</sup> STREET**

WHEREAS, the City of Edina has planned the improvement of MSAS 150 Wooddale Avenue from West 56<sup>th</sup> Street to West 50<sup>th</sup> Street; and

WHEREAS, the City of Edina will be expending Municipal Street Aid Funds on the improvement of this Street, and

WHEREAS, this improvement does not provide adequate width for parking on both sides of the street; and approval of the proposed construction as a Municipal State Aid Street project must therefore be conditioned upon certain parking restrictions.

NOW, THEREFORE, IT IS THEREBY RESOLVED that the City Council of the City of Edina shall ban the parking of motor vehicles on the west side of MSAS 150 Wooddale Avenue from West 56<sup>th</sup> Street to West 50<sup>th</sup> Street, at all times.

Passed and adopted this 18<sup>th</sup> day of May 2004.

Motion carried on rollcall vote – four ayes.

Member Masica introduced the following resolution, seconded by Member Hovland and moved adoption:

**RESOLUTION NO. 2004-47  
RELATING TO PARKING RESTRICTIONS ON  
S.A.P. 120-148-16 (GLEASON ROAD)  
MC CAULEY TRAIL TO VALLEY VIEW ROAD**

WHEREAS, the City of Edina has planned the improvement of MSAS 148 Gleason Road from Valley View Road to McCauley Trail; and

WHEREAS, the City of Edina will be expending Municipal Street Aid Funds on the improvement of this Street, and

WHEREAS, this improvement does not provide adequate width for parking on both sides of the street; and approval of the proposed construction as a Municipal State Aid Street project must therefore be conditioned upon certain parking restrictions.

NOW, THEREFORE, IT IS THEREBY RESOLVED that the City Council of the City of Edina shall ban the parking of motor vehicles on the west side of MSAS 148 Gleason Road from Valley View Road to McCauley Trail, at all times.

Passed and adopted this 18<sup>th</sup> day of May 2004.

Motion carried on rollcall vote – four ayes.

\*CONFIRMATION OF CLAIMS PAID Member Masica made a motion and Member Hovland seconded the motion approving payment of the following claims as shown in detail on the Check Register dated May 5, 2004, and consisting of 35 pages: General Fund \$103,802.74; Communications Fund \$407.31; Working Capital Fund \$28,653.78; Art Center Fund \$10,683.27; Golf Dome Fund \$938.15; Aquatic Center Fund \$784.86; Golf Course Fund \$68,726.81; Ice Arena Fund \$18,787.40; Edinborough/Centennial Lakes Fund \$16,571.43; Liquor Fund \$148,883.04; Utility Fund \$32,660.54; Storm Sewer Fund \$1,230.43; Recycling Fund \$32,171.80; PSTF Agency Fund \$3,734.81; TOTAL \$468,036.37; and for approval of payment of claims dated May 12, 2004, and consisting of 32 pages: General Fund

\$231,270.61; Communications Fund \$1,463.77; Working Capital Fund \$297,004.45; Construction Fund \$1,913.91; Art Center Fund \$4,923.01; Golf Dome Fund \$8,877.89; Aquatic Center Fund \$6,159.89; Golf Course Fund \$35,435.69; Ice Arena Fund \$8,304.36; Edinborough/Centennial Lakes Fund \$14,516.17; Liquor Fund \$146,111.96; Utility Fund \$67,750.36; Storm Sewer Fund \$1,793.27; PSTF Agency Fund \$1,615.39; TOTAL \$827,140.73.

Motion carried on rollcall vote – four ayes.

\*RESOLUTION NO. 2004-44 – SETTING HEARING DATE OF JUNE 1, 2004, VERNON TERRACE APARTMENT PROJECT – PROPOSED BOND ISSUE Member Masica introduced the following resolution, seconded by Member Hovland:

**RESOLUTION NO. 2004-44**

**ESTABLISHING THE DATE FOR A PUBLIC HEARING AND AUTHORIZING THE PUBLICATION OF A NOTICE OF PUBLIC HEARING WITH RESPECT TO THE PROPOSED ISSUANCE OF VARIABLE RATE DEMAND MULTIFAMILY HOUSING REVENUE REFUNDING BONDS (VERNON TERRACE APARTMENTS PROJECT) SERIES 2004 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$5,705,000**

**BE IT RESOLVED** by the City Council (the “City Council”) of the City of Edina Minnesota, a municipal corporation and political subdivision of the State of Minnesota (the “City”), as follows:

**Section 1. Recitals.**

1.01. Pursuant to Minnesota Statutes, Chapter 462C, as amended (the “Act”), the City is authorized to carry out the public purposes described in the Act by providing for the issuance of revenue bonds to provide funds to finance or refinance multifamily developments located within the City.

1.02. Bigos-Vernon Terrace, LLC, a Minnesota limited liability company (“Borrower”), has requested that the City issue revenue refunding bonds under the Act and loan the proceeds derived from the sale of the bonds to Borrower to be applied to the redemption and prepayment of the outstanding Variable Rate Demand Multifamily Mortgage Revenue Refunding Bonds (Vernon Terrace Project) Series 1999, issued by the City in the original principal amount of \$6,225,000 to refund revenue refunding bonds previously issued by the City which were issued to refund revenue bonds previously issued by the City which were issued to refund prior obligations of the City issued to finance the acquisition, construction and installation of a 146-unit multifamily housing rental project commonly known as Vernon Terrace together with related costs, developed on an approximately 3.5 acre parcel of land located at 5420 Vernon Avenue in the City (the “Project”).

1.03. The revenue bonds proposed to be issued by the City for the purposes described above are proposed to be issued in one or more series as Variable Rate Demand Multifamily Housing Revenue Refunding Bonds (Vernon Terrace Apartments Project) Series 2004 (the “Series 2004 Bonds”) in an original aggregate principal amount not to exceed \$5,705,000. The proceeds of the Series 2004 Bonds are to be applied to refinance the Project and such proceeds may also be applied to any of the following purposes: (i) fund a debt service reserve fund or other reserves for the Series 2004 Bonds; (ii) fund a portion of

the interest on the Series 2004 Bonds; and (iii) pay costs of issuance with respect to such Series 2004 Bonds.

1.04. Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated thereunder, require that prior to the issuance of such revenue bonds, the City Council of the City must approve the issuance of such revenue bonds after conducting a public hearing in accordance with the requirements of Section 147(f) of the Code.

**Section 2. Public Hearing.**

2.01. As requested by Borrower, at a regular meeting of the City Council of the City to be held on Tuesday, June 1, 2004, the City Council will conduct a public hearing commencing on or after 7:00 p.m. with respect to the proposed issuance of the Series 2004 Bonds for the refinancing of the Project referenced in this resolution.

2.02. A notice of the public hearing shall be published in accordance with the requirements of Section 147(f) of the Code. The costs of the preparation and publication of such notice of public hearing shall be paid by Borrower. Borrower shall work with the staff of the City, Dorsey & Whitney LLP, as counsel for the City, and McGrann Shea Anderson Carnival Straughn & Lamb, Chartered, as Bond Counsel, to coordinate the publication of such notice in accordance with applicable law.

**Section 3. Miscellaneous Matters.**

3.01. If the issuance of the Series 2004 Bonds is approved by the City, the Series 2004 Bonds shall never constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City except the City's interest in the loan or revenue agreement with respect to the Series 2004 Bonds and the Project refinanced with the proceeds of the Series 2004 Bonds, and the Series 2004 Bonds, when, as, and if issued, shall recite in substance that the Series 2004 Bonds, including interest thereon, are special limited obligations of the City payable solely from the revenues received from such Project and property pledged to the payment thereof, and shall never constitute a general or moral obligation of the City.

3.02. The law firm of McGrann Shea Anderson Carnival Straughn & Lamb, Chartered is authorized to act as Bond Counsel with respect to the Series 2004 Bonds and to assist in the preparation and review of necessary documents relating to the Series 2004 Bonds. The Mayor, the City Manager, and other officers, employees, and agents of the City are hereby authorized to assist Bond Counsel in the preparation of such documents. The law firm of Dorsey & Whitney LLP as counsel for the City is authorized to act as Issuer's Counsel with respect to the Series 2004 Bonds and to assist in the preparation and review of necessary documents relating to the Series 2004 Bonds.

3.03. All actions to be taken by the City with respect to the Series 2004 Bonds are subject to an agreement by the City and Borrower to pay any and all costs incurred by the City in connection with the issuance of the Series 2004 Bonds and the application of the proceeds of the Series 2004 Bonds to the refinancing of the Project referenced above and to pay administrative fees imposed by the City, if any, with respect to the Series 2004 Bonds.

3.04. The adoption of this Resolution does not constitute a guaranty or firm commitment that the City will issue the Series 2004 Bonds as requested by Borrower. The City retains the right in its sole and absolute discretion to withdraw from participation and accordingly not to issue the Series 2004 Bonds, or issue the Series 2004 Bonds in an amount less than the amount referred to herein, should the City at any time prior to issuance thereof determine that it is in the best interest of the City not to issue the Series 2004 Bonds, or to issue the Series 2004 Bonds in amounts less than the amounts requested by Borrower, or should the parties to the transaction be unable to reach agreement as to the terms and conditions of any of the documents required for the transaction.

3.05. The City Council hereby declares its preliminary intention to issue the Series 2004 Bonds, subject to compliance with the terms and conditions of the Act and subject to final agreement among the City, Borrower, and the initial purchaser of the Bonds as to the terms and conditions thereof. This resolution is intended to constitute a declaration of official intent for purposes of Treasury Regulations, Section 1.150-2, and any successor law, regulation, or ruling.

Section 4. Effective Date. This Resolution shall be in full force and effect from and after its passage.

Approved by the City Council of the City of Edina, Minnesota this 18<sup>th</sup> day of May, 2004.

Motion carried on rollcall vote – four ayes.

\*PETITION RECEIVED REQUESTING ALLEY PAVING SOUTH OF WEST 56<sup>TH</sup> STREET BETWEEN BEARD AND ABBOTT AVENUE Motion made by Member Masica and seconded by Member Hovland accepting the petition for alley paving south of West 56<sup>th</sup> Street between Beard and Abbott Avenue and submitting it to the Engineering Department for processing as to feasibility.

Motion carried on rollcall vote – four ayes.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 9:30 P.M.

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City Clerk